

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.63 of 2015

and

M.P.No.1 of 2015

The Managing Director,
Tamil nadu State Transport Corporation,
Villupuram. ... Appellant/Respondent

Vs.

Sathish ... Respondent/Claimant

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.06.2014 made in M.C.O.P.No.98 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Ariyalur.

For Appellant : Mr.K.J.Sivakumar
For Respondent : Mr.T.Gobinath

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 26.06.2014 made in M.C.O.P.No.98 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Ariyalur.

2.The appellant is the respondent in M.C.O.P.No.98 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Ariyalur. The respondent filed the said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.03.2013.

3.According to the respondent, on 18.03.2013 at about 09.30 A.M., while he was riding in his TVS XL Super on Jayankondam - Trichy Main Road, the driver of the bus belonging to the appellant-Transport Corporation drove the same in a rash and negligent manner and dashed against the respondent's TVS XL

Super and caused the accident. Due to the said accident, the respondent sustained multiple injuries and therefore he filed claim petition claiming a sum of Rs.20,00,000/- as compensation against the appellant/Transport Corporation.

4.The appellant/Transport Corporation filed counter statement and denied all the averments made by the respondent. According to appellant/Transport Corporation, the respondent drove the TVS XL Super motorcycle in a zig zag manner and dashed against the right side front of the bus and fell down. Thus, the accident occurred only due to rash and negligent riding by the respondent. The respondent did not possess valid driving license at the time of accident. The respondent has to prove his age, avocation, income, period of treatment, medical expenditure and percentage of disability by producing documentary evidence. In any event, the quantum of compensation claimed by the respondent is higher and prayed for dismissal of the claim petition.

5.Before the Tribunal, on behalf of the respondent, the first respondent examined herself as P.W.1 and one Arunkumar as P.W.2 and 13 documents were marked as Exs.P1 to P13. The third respondent and appellant/Insurance Company did not let in any oral or documentary evidence.

6.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation and directed the appellant-Transport Corporation to pay a sum of Rs.3,24,950/- as compensation to the respondent/claimant.

7.Challenging the said award dated 26.06.2014 made in M.C.O.P.No.98 of 2013 granting compensation to the respondent/claimant, the appellant-Transport Corporation has come out with the present appeal.

8.The learned counsel appearing for the appellant-Transport Corporation contended that the Tribunal ought to have held that the accident has occurred only due to rash and negligent riding by the respondent. There is no document to prove that accident has occurred only due to the rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. The Tribunal erred in fixing a sum of Rs.4,000/- as the monthly income in the absence of any material to prove the avocation and income. The Tribunal ought to have fixed only Rs.3,000/- as monthly income of the respondent. The compensation awarded by the Tribunal under different heads are excessive and prayed for setting aside the award passed by the Tribunal and

allowing the appeal.

9.Per contra, Mr.T.Gobinath, learned counsel appearing for the respondent/claimant contended that the accident has occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation. F.I.R. is registered against the driver of the bus belonging to appellant-Transport Corporation. The appellant-Transport Corporation has not let in any evidence to show that accident has occurred due to rash and negligent riding by the respondent. The Tribunal has appreciated the oral and documentary evidence and held that accident has occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation. There is no reason to interfere in the said award passed by the Tribunal and prayed for dismissal of the appeal.

10.Heard the learned counsel appearing for the appellant-Insurance Company as well as the learned counsel appearing for the respondent and perused the entire materials on record.

11.From the materials available on record, it is seen that the respondent is alleging that accident has occurred due to rash and negligent driving by the driver of the bus belonging to the appellant-Transport Corporation. While so, the appellant-Transport Corporation is alleging that the accident has occurred due to negligent riding of the TVS XL Super by the respondent. Both the respondent as well as driver of the bus belonging to appellant-Transport Corporation were examined before the Tribunal and they deposed as per their averments in the claim petition and counter statement respectively. The respondent has produced copy of F.I.R., which is registered against the driver of the bus belonging to appellant-Transport Corporation. Even though the appellant-Transport Corporation has contended before the Tribunal that driver of the bus had given complaint which was not taken by the Police, the appellant-Transport Corporation has not produced any material to show that he has taken up the matter with the higher officials in the Police Department. Apart from the interested witness R.W.1, who was the driver of the bus, no other witness was examined by the appellant to substantiate their contention. The Tribunal, considering the above facts held that accident has occurred only due to rash and negligent driving by the driver of the bus belonging to appellant-Transport Corporation. There is no error or perversity in the finding of the Tribunal warranting interference by this Court.

12.As far as quantum of compensation is concerned, the Tribunal considering the entire materials on record awarded a

sum of Rs.3,24,950/- as compensation to the respondent/claimant, which is not excessive and the same do not warrant interference by this Court.

13.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.3,24,950/- awarded by the Tribunal as compensation to the respondent/claimant, along with interest and costs is confirmed. The appellant-Transport Corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.98 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Ariyalur. On such deposit, the respondent is permitted to withdraw the award amount, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Motor Accidents Claims Tribunal,
The Principal District Judge,
Ariyalur.

2.The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.T.Gopinath Advocate sr100973

mr(co)
aa05/08/2020

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